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Written statement* submitted by Amuta for NGO Responsibility, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Amuta for NGO Responsibility Statement on Women's Rights in the Middle East and North Africa Region

The Amutah for NGO Responsibility calls on the Human Rights Council and international NGOs to make the advancement of women's rights in the Middle East and North Africa (MENA) region, particularly in Iran and the countries of the Arab League, a key priority for 2014. The focus on this campaign should center on the repeal of discriminatory and destructive personal status laws and the elimination of polygamy, child marriage and genital mutilation.

The 2011 "Arab Spring" sparked optimism that there would be profound democratic change in the Middle East, a region dominated by autocratic and oppressive government. The lack of rights and fundamental freedom for women was the most egregious manifestation of these abusive governments. It was hoped that the ousting of dictators in Tunisia, Egypt, Yemen, and Libya in 2011, and the mass demonstrations elsewhere, would bring about fundamental reforms, especially for women. Unfortunately, these changes did not materialize. The Council of Europe notes, "There have been no major improvements in women's lives."[1] Other experts have commented that women have experienced exclusion from the new governments and have seen their position move "from marginalization during repressive regimes to rejection with Islamist regimes."[2]

Women's rights are essential for society as a whole. The World Bank emphasizes that women's equality is a core development objective in its own right. Researcher Steven Fish has found that countries that "marginalize women," in contrast, have "fewer anti-authoritarian voices in politics and more men who join fanatical religious and political brotherhoods – two factors that stifle democracy."[3]

Nevertheless, women in the Middle East, aside from Israel, enjoy few rights. According to the UN Arab Human Development Reports, "nowhere in the Arab world do women enjoy equality with men," and they "remain severely marginalized in Arab political systems." In the 2012 World Economic Forum's Global Gender Gap Index, MENA ranked the lowest of all regions worldwide, and included six of the ten lowest ranked countries. The highest ranking MENA country (apart from Israel, which ranked 56), is the United Arab Emirates, ranking 107 out of 136. Personal status laws discriminate against women in matters of marriage, divorce, child custody, and inheritance. Some countries have oppressive guardianship systems, which severely restrict women's freedom of movement, expression, and ability to work. Repressive cultural practices such as child marriage, female genital mutilation, polygamy, and "honor" crimes are endemic. Coupled with unsatisfactory educational opportunities and extremely high rates of illiteracy, the laws and tribal customs create an environment where there is both entrenched *de jure* and *de facto* discrimination.

In many countries in the MENA region, discrimination based on gender is not prohibited. But even in those countries where gender discrimination is ostensibly prohibited by law, pervasive legal and social inequality persists. This is due in large part to the incorporation of Sharia law into personal status laws and family codes. Women are viewed as minors and under the guardianship of their husbands and fathers. Violence perpetrated by family members is overlooked and rarely prosecuted. Laws generally discriminate against women in all matters relating to nationality, marriage, divorce, and child custody. Women's presence and roles in public life and spaces are often strictly controlled.

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[1] For a complete list of sources mentioned in this submission, see, Anne Herzberg, "Second Class Rights: How Amnesty International and Human Rights Watch Fail Women in the Middle East," NGO Monitor Monograph Series (Steinberg, ed. 2013), http://www.ngo-monitor.org/article/second_class_rights_how_amnesty_international_human_rights_watch_fail_women_in_the_middle_east#executive.

[2] Rola Dashti *in Reflections on Women in the Arab Spring*, Woodrow Wilson International Center for Scholars (Heideman & Youssef, eds., 2012).

[3] Isobel Coleman, "The Payoff from Women's Rights," *Foreign Affairs 83 (2004)*

Domestic Violence

In all MENA countries, domestic violence is a serious problem. Most countries, including Bahrain, Egypt, Iran, Palestinian Authority, Jordan, Lebanon, Saudi Arabia, and Syria, do not explicitly prohibit it. [4] In Algeria, in order to file charges, a victim of abuse must be incapacitated for at least fifteen days and present a doctor's note. In Iraq, a husband may legally punish his wife "within certain limits prescribed by law or custom." Under the UAE's penal code, men are allowed to use violence against female and minor family members. Even in countries where some legal remedies are available for domestic violence victims, the law is mostly unenforced.

Throughout the region, with the exception of Israel and Tunisia, spousal rape is not criminalized. While the penal codes criminalize rape in Algeria, Bahrain, Iraq, Libya, the Palestinian Authority, Qatar, and the UAE, they do not specify whether spousal rape is prohibited under the law. In other countries, such as Egypt, Iran, Jordan, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia, Syria, and Yemen, spousal rape is not a crime. In Iraq, Lebanon and Syria, charges of rape are dropped and the conviction nullified if the rapist marries his victim. In Saudi Arabia, rape victims themselves can be criminally prosecuted.

Honor killings are pervasive in many MENA countries including Egypt, Iraq, Jordan, Lebanon, Kuwait, Iran, and the Palestinian Authority. These include gruesome crimes such as beheadings, burning alive, forced self-immolation, and torture, primarily committed against girls and women who are accused of behaving "immorally." Penal law regarding these crimes weigh heavily in favor of the perpetrators and impose light criminal punishment.

Personal Status Laws & Family Codes

Sharia law is fully in place in Iran, Iraq, Mauritania, Qatar, Saudi Arabia, Sudan, the UAE, and Yemen. In other MENA countries, while Sharia law does not govern the entire legal system, it is applied in many areas of the law that regulate women's lives, particularly family codes and personal status laws. These laws are explicitly discriminatory against women. Routinely, women do not enjoy the same rights and protections as men in matters of marriage, divorce, child custody, and inheritance.

For example, in Iran and Saudi Arabia, women may only marry with the permission of their father or another male relative. In Bahrain, Lebanon, Qatar, and Saudi Arabia, women are unable to transmit nationality to their children or spouse. Children in Jordan, Kuwait, Saudi Arabia, and Syria may only obtain citizenship via their fathers. Women are forbidden from marrying non-Muslims and face conviction on apostasy laws (punishable by death in some countries), including in Egypt, Kuwait, and Saudi Arabia. Polygamy is legal in Algeria, Bahrain, Djibouti, Egypt, Iran, Iraq, Jordan, Kuwait, Libya, Mauritania, Morocco, Oman, Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, the UAE, and Yemen, despite its documented detrimental impact on women and children.

Sex Segregation & Guardianship

Sex segregation and other intense control over women's lives are pervasive in Iran and the Gulf States, as well as in Hamas-controlled Gaza. As one Iranian human rights activist noted, "the law that is being enforced in Iran today does not consider women to be full human beings."[5] Saudi Arabia's system of sex segregation governs both public and private institutions. Qatar and Saudi Arabia have a draconian "guardianship" systems imposed on women, which restricts the rights of women in relation to marriage, employment, and travel.

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[4] On September 2, 2013, the Saudi parliament passed a law imposing minor criminal and financial penalties for domestic abuse. Whether the law in fact will be incorporated and implemented remains to be seen. It is also unclear if the new law will apply to spousal rape. Moreover, the penalties imposed by the law are difficult to enforce given Saudi Arabia's guardianship system for women.

[5] Shirin Ebadi, "A Warning for Women of the Arab Spring", *Wall Street Journal* (2012) *available at* http://online.wsj.com/article/SB100 01424052970203370604577265840773370720.html

The situation for women in Saudi Arabia is so dismal that many commentators and scholars have labeled the situation to be one of "gender apartheid" and have advocated for expanding the crime of apartheid to include these systems of complete gender segregation. As noted by Ann Elizabeth Mayer, "many of the same patterns of oppression and domination that were recognized as underlying South African apartheid can be found...in some Middle Eastern countries where women are completely excluded from roles in the political establishment."[6]

Reservations to International Human Rights Treaties

While many Arab and Muslim states have signed and ratified human rights treaties, most of these countries have declared reservations restricting implementation such that the provisions will not conflict with Sharia law. Other MENA countries express willingness to abide by the treaty to the extent it does not conflict with domestic family codes, most of which are governed by Sharia, and as described above, discriminate against women. These reservations essentially nullify the core purpose of these treaties as they relate to women's rights and equality and raise doubt as to the State commitment to protecting human rights.

In conclusion, to date, the Council and international NGOs have not done nearly enough to protect the rights of women in Iran and the countries of the Arab League. They must act immediately to end this systematic discrimination in violation of all human rights norms and which amounts to crimes against humanity.

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[6] Elizabeth Mayer, "A Benign Apartheid: How Gender Apartheid Has Been Rationalized". *UCLA Journal of International Law and Foreign Affairs 237* (2000).